



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>

SH

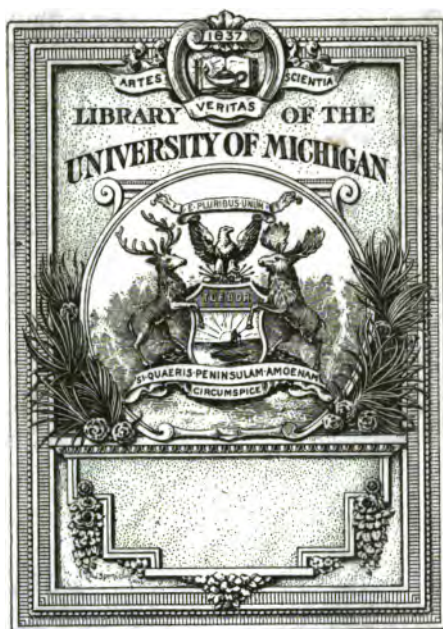
365

.R4

B 437814



ANNUAL REPORT
OF THE
COMMISSIONERS OF SHELL FISHERIES
1905.



SH
365
.R4

State of Rhode Island and Providence Plantations.

ANNUAL REPORT

OF THE

COMMISSIONERS OF SHELL FISHERIES,

MADE TO THE

GENERAL ASSEMBLY

AT ITS

JANUARY SESSION, 1905.

PROVIDENCE:

E. L. FREEMAN & SONS, PRINTERS TO THE STATE.

1905.

OFFICERS AND EMPLOYEES
OF THE
COMMISSIONERS OF SHELL FISHERIES.

COMMISSIONERS OF SHELL FISHERIES.

PHILIP H. WILBOUR.....	P. O. Address, Little Compton, R. I.
JAMES M. WRIGHT.....	“ “ Clayville, R. I.
JOHN H. NORTHUP.....	“ “ Apponaug, R. I.
SAMUEL B. HOXSIE, JR.....	“ “ Quonocontaug, R. I.
WILLIAM T. LEWIS, JR.....	“ “ Drownville, R. I.

CLERK.

JAMES C. COLLINS	P. O. Address, Providence, R. I.
------------------------	----------------------------------

ENGINEER.

O. P. SARLE.....	P. O. Address, Providence, R. I.
------------------	----------------------------------

DEPUTIES.

BENJAMIN HILL.....	P. O. Address, Apponaug, R. I.
FRANKLIN D. PAINE.....	“ “ Drownville, R. I.
OLIVER G. HICKS.....	“ “ Bristol Ferry, R. I.
LEMAN WARDSWORTH.....	“ “ Wickford, R. I.
ALEXANDER DENNIE.....	“ “ Tiverton, R. I.



Narragansett Bay Company's Patrol Boat.

REPORT.

*To the Honorable the General Assembly of the State of Rhode Island
and Providence Plantations:*

GENTLEMEN:—As required by statute, the Commissioners of Shell Fisheries make this their annual report to your honorable body at the January session thereof, A. D. 1905.

There has been no change in the law pertaining to shell fisheries during the year just closed. No material change has taken place in these laws since the revision of the same in March, 1901.

We are able at this time, January 1, 1905, to make a more satisfactory report of this industry for the past year than for many previous years. The reports which we have received from planters have been more satisfactory both to the planters and to the commission.

At the opening of the oyster season (Sept. 1, 1904), it was generally conceded that the oysters never opened better. The openers were paid the same price per gallon as in former years for opening, enabling this class of laborers to make very good day wage by working on half time. One firm, employing nearly one hundred men, very often worked the men only part of the forenoon, during which time they made very good day wages. The employers of these men kept twice as many in their employ as were actually needed, for the purpose of giving employment to as many men as possible.

We can say that not only has the planter prospered in his business for the past year, but the free fishermen have done very well during the open season. Many of these men have found employment with their oyster tongs and boats taking seed oysters from the public oyster beds, and obtaining very handsome profits therefrom.

There have been very fair sets of oysters the past season. In some particular places the set has been *very* satisfactory.

Complaints were quite common, in the earlier part of the hatching season, of a poor set in certain portions of our waters; but as the spat became better developed there has been less complaint, and we think now all are agreed that upon the whole there has been a very fair set the past season.

Formerly the planters in this State relied most altogether upon the seed oyster obtained from the waters of the State of Connecticut, and in fact this is largely the case at the present time; but within a short period there has been a demand for leased land at the highest lease rent for the purpose of putting down shells and catching spat. So far as this experiment has been tried it has been successful. Land has been leased as far down the bay as Plum Beach for this purpose, this being the most southerly land leased upon the western side of the bay. We are informed there was obtained a very large set upon the shells thus planted.

As the success of the oyster industry of this State depends in a large measure upon the set in the State of Connecticut, we have in this connection taken the liberty of copying in full what the Shell Fish Commissioners of that State in their last annual report say in regard to the set in their waters, which is as follows:

“Up to the present year, 1904, there has been no general set upon the oyster grounds of Connecticut since the summer and fall of 1899. In that year the set was profuse and very general, and a harvest was reaped therefrom which was very encouraging to those in the business either as planters or workers on the natural beds. The oyster requires, in Connecticut waters, and under average conditions, three years to be properly matured for market, and as there has been no general and satisfactory set till this year since 1899, there has been of late years a scarcity of Connecticut matured oysters which must continue, even though partially made up from other sources, till the present set matures. The set this year has been even better in character than that of 1899, and if not so profuse, has made up for



Watchman's Boat near Rummstick Point.

that in its good quality and in the price readily obtained from the buyers who look to our great natural beds for their supply, and who have had comparatively little from them for four years past."

POLLUTION OF THE BAY.

At a regular meeting of the Commissioners of Shell Fisheries, holden at the office of the Commissioners at Providence, June 7, 1904, a large number of oyster planters and others interested in the shell-fish industry appeared before them and made complaint that shell-fish in the upper part of the bay were being impregnated with a strong flavor of gas which rendered them worthless. One large planter of oysters in the bay appeared personally and by attorney to lay complaint before the commissioners. He showed both oysters and quahaugs to the commissioners which were materially affected by some gassy substance which could easily be discovered by both the taste and smell. Letters were produced from those having purchased shell-fish obtained from the upper part of the bay, complaining strongly of those fish as being worthless. Many complaints came also from the free fishermen as affecting their industry. The commission, being convinced that damage was being done to the oysters and other shell-fish planted upon land leased for the purpose of cultivating oysters, appointed a committee of three to make a thorough examination of the state of the oyster beds near the city and report to the commission. This committee immediately entered upon their duties and made various visits to the oyster grounds said to be affected, taking specimens of the soil and water, both upon the oyster beds and also upon the land further up in the bay where no oysters were planted. They were accompanied by a competent chemist, who subsequently made a careful analysis of the specimens taken.

This committee made a very full report at a meeting of the commission holden July 15th, A. D. 1904, which was received and placed on file, a copy of which will be found in full in the appendix to this report.

This committee, having traced, as they firmly believe, to the Provi-

dence Gas Company this pollution, by direction of the commission referred the case to the Harbor Commission, whose duty it is to prosecute violations of the law in regard to pollution of the waters of the bay by gas. After submitting a large amount of evidence to the Harbor Commission, said commission placed the evidence thus adduced before the State's attorney, who, having laid the matter before the grand jury for the county of Providence, two bills of indictment were found against said company, which are now pending in the courts.

During the year 1904 there has been paid for rent of oyster grounds to us the sum of forty-five thousand two hundred and fifty-two dollars and fifty-eight cents.

There are now, on the first day of January, 1905, standing upon the books of records in this office, leases amounting to 3,338.6 acres paying an annual rent of ten dollars per acre, making an income to the State of the sum of thirty-three thousand three hundred and eighty-six dollars from land rented at this price; and there are rented oyster lands, at five dollars per acre, 2,767.7 acres, paying the amount of thirteen thousand eight hundred and thirty-eight dollars and fifty cents; also 148.75 acres paying an annual rent of one dollar per acre, amounting to one hundred and forty-eight dollars and seventy-five cents, which, added to the other two amounts, makes a total of forty-seven thousand three hundred and seventy-three dollars and twenty-five cents, which will without doubt be fully collected during the year 1905.

Of the 148.75 acres now rented at one dollar per acre the leases on 67.69 acres will expire during the year 1905. After the year 1907 all leases of land leased at one dollar per acre will have expired, and thereafter no land can be rented for less than five dollars per acre.

There are quite a number of applications for oyster land now pending before the board, which, if granted, will increase the revenues of the State from this source very materially.

During the year 1904 there have been cancelled 46.2 acres of

oyster ground paying a rent of ten dollars per acre, and 99.2 acres of land paying an annual rent of five dollars per acre.

Nearly all of this land cancelled was never planted to oysters, being found upon examination to be unfit for that purpose, but in all cases the rent was paid upon the same to the date of cancellation.

Financial Statement of the Oyster Industry of the State from January 1, A. D. 1904, to January 1, A. D. 1905.

Receipts for rent of oyster ground.....	\$45,222 58
---	-------------

DISBURSEMENTS.

Paid for salaries of commissioners.....	\$2,216 65
Paid for salary of clerk.....	1,000 00
Engineer.....	1,162 96
Sundry expenses.....	378 44
Paid deputy commissioners for enforcing shell-fish laws.....	1,300 00
	<hr/>
	\$6,058 05

Since the first day of January, A. D. 1905, there has been collected and paid to the general treasurer of the State for rent of oyster ground falling due on January 1, 1905, the sum of forty-three thousand three hundred and sixty-one dollars and thirty-one cents (\$43,361.31). There are now due for rents, which will be paid during the year, the sum of four thousand and eleven dollars and eighty-nine cents (\$4,011.89).

RECEIPTS FOR RENTS OF OYSTER GROUNDS.

The following table shows the gross receipts received by the State each year for rents of oyster grounds since and during the year 1864, at which time this office was established:

1864.....	\$61 00
1865.....	737 72
1866.....	661 27
1867.....	1,568 50

1868.....	1,814 40
1869.....	1,949 15
1870.....	1,527 65
1871.....	2,186 63
1872.....	2,772 95
1873.....	4,483 88
1874.....	4,997 00
1875.....	5,276 00
1876.....	5,300 00
1877.....	6,045 25
1878.....	6,582 90
1879.....	7,860 00
1880.....	8,190 00
1881.....	9,333 00
1882.....	9,850 00
1883.....	10,312 00
1884.....	10,757 00
1885.....	11,920 00
1886.....	10,433 00
1887.....	8,648 00
1888.....	7,614 00
1889.....	9,997 00
1890.....	5,616 20
1891.....	12,595 70
1892.....	6,731 55
1893.....	6,491 25
1894.....	6,675 55
1895.....	6,509 00
1896.....	6,569 57
1897.....	7,016 74
1898.....	7,690 00
1899.....	13,558 46
1900.....	20,973 08
1901.....	25,767 38
1902.....	36,843 96
1903.....	42,160 02
1904.....	45,252 58
1905 (estimated).....	47,373 20



Oyster Dredger near Tiverton.

SCALLOPS.

In our last annual report we were able to report an income to the State of six hundred dollars for the year, which was received for licenses at five dollars for each license; but for some cause yet unexplained, the scallop has departed from our waters. Not a single license has been applied for, and consequently the State derives nothing from this source for the past year. We can not report of any scallops having been taken from our waters during that time. If any have been taken, the quantity has been so small no report has been made to this office of them. There is actually no prospect of any catch for the coming year. We are unable from any source to obtain any information of a set in any of our waters. We can give no plausible reason for the scarcity of the scallop. This question we shall have to refer to those who make a scientific study of such subjects.

CLAMS AND QUAHAUGS.

From all parts of the State bordering upon the bay we have very flattering reports as to the quantity of the soft-shell clam in our waters. This is very good news to the people of the State, who but a very short time since began to think that this shell-fish was rapidly being exterminated. Such of the product as was produced here for a number of years was very small, hardly large enough for table use, and most of those used were imported from either the State of Massachusetts or Maine. From all reports the size is good, and both the quantity and quality have not been better than now for many years. We think that the supply will be sufficient for the home market this season. During a portion of the past year the clam industry has been very much affected by the gas pollution of the upper part of the bay; no clams being salable which have been taken north of Conimicut Point during that time.

We are not informed of any increase in the quantity of quahaugs produced, the price continuing very high.

Respectfully submitted,

PHILIP H. WILBOUR,
JAMES M. WRIGHT,
JOHN H. NORTHUP,
WILLIAM T. LEWIS, JR.,
SAMUEL B. HOXSIE.

Commissioners, Shell Fisheries.

APPENDIX A.

ALPHABETICAL LIST

Of leaseholders of oyster ground within the jurisdiction of the State, with the number of acres leased to each, as shown by the Commissioners of Shell Fisheries on January 1, 1905, and the annual rate per acre paid by each person.

NAME.	Town.	Acres.	Rent per acre.	Amount.
Aldrich, Charles H.....	East Providence..	3.8	\$10 00	\$38 00
Bayne, Washington C.....	Warwick.....	27.1	10 00	271 00
Barns, Martin S.....	Westerly.....	3.	10 00	30 00
Bell, George S.....	Warwick.....	1.1	10 00	11 00
Bliss, George N.....	East Providence..	222.4	10 00	2,224 00
Bliss, George N.....	East Providence..	25.3	5 00	126 50
Bliss, George N.....	East Providence..	2.6	1 00	2 60
Blount, Mary E.....	Barrington.....	3.3	10 00	33 00
Blount & Hunt.....	Barrington.....	40.3	10 00	403 00
Blount & Hunt.....	Barrington.....	16.5	5 00	82 50
Bolton, Joseph.....	Warren.....	3.	10 00	30 00
Bourne, Cornelius E. & Sons..	East Providence..	58.6	10 00	586 00
Bowden, J. F. & A. B.....	Barrington.....	4.3	10 00	43 00
Bowden, Charles H.....	Barrington.....	1.2	10 00	12 00
Bowden, James A.....	Barrington.....	4.2	10 00	42 00
Brown, Joseph E.....	Warren.....	9.6	10 00	96 00
Brown, Joseph E.....	Warren.....	8.7	5 00	43 50
Brown, Edwin.....	East Greenwich...	32.2	10 00	322 00
Brown Edwin.....	East Greenwich...	305.6	5 00	1,528 00
Butler, Walter H.....	East Providence..	2.	10 00	20 00
Buckingham, John E.....	Barrington.....	9.8	10 00	98 00
Buckingham, John E.....	Barrington.....	10.	5 00	50 00
Buckingham, Erastus M.....	Barrington.....	107.4	10 00	1,074 00
Buckingham, Erastus M.....	Barrington.....	67.7	5 00	338 50
Church, George H.....	Providence.....	402.4	10 00	4,024 00
Church, George H.....	Providence.....	267.3	5 00	1,336 50
Church, George H.....	Providence.....	57.6	1 00	57 60
Chapman, Harris P.....	Westerly.....	3.	10 00	30 00
Covo, George H.....	Warren.....	4.	10 00	40 00
Covo, George H.....	Warren.....	3.5	5 00	17 50

ALPHABETICAL LIST.—Continued.

NAME.	TOWN.	Acres.	Rent per acre.	Amount.
Cottrell, George F. et al.....	Tiverton.....	87.3	10 00	873 00
Cottrell, George F. et. al.....	Tiverton.....	63.9	5 00	319 50
Cornell, Sidney.....	Cranston.....	5.8	10 00	58 00
Colley, William E.....	Providence.....	47.	5 00	235 00
Connolly, Thomas H.....	Warren.....	29.7	10 00	297 00
Connolly, Thomas H.....	Warren.....	2.6	5 00	13 00
Dewing, Martin.....	Providence.....	119.1	10 00	1,191 00
Dewing, Martin.....	Providence.....	86.1	5 00	430 50
Dewing, Martin.....	Providence.....	42.46	1 00	42 46
Decker, Garrett F.....	Pawtuxet.....	37.8	10 00	378 00
Decker, Garrett F.....	Pawtuxet.....	.3	5 00	1 50
Dodge, John W.....	Barrington.....	79.	10 00	790 00
Dodge, John W.....	Barrington.....	1.7	5 00	8 50
Dodge, Sarah M.....	Warwick.....	5.	10 00	50 00
Dodge, David R.....	Warwick.....	15.	10 00	150 00
Dodge, David R.....	Warwick.....	9.8	5 00	49 00
Field, Waterman E.....	Warwick.....	14.	10 00	140 00
Field, Waterman E.....	Warwick.....	9.7	5 00	48 50
Freeman, Walter.....	Providence.....	34.6	10 00	346 00
Gladding, John A. C. & Son...	Bristol.....	48.3	10 00	483 00
Gavitt, Oliver E.....	Westerly.....	3.	10 00	30 00
Gavitt, Celia R.....	Westerly.....	1.	10 00	10 00
Goodspeed, Joseph W.....	Warren.....	42.5	10 00	425 00
Goodspeed, Joseph W.....	Warren.....	13.4	5 00	67 00
Greene, George T., Jr.....	Warren.....	53.9	10 00	539 00
Greene, George T., Jr.....	Warren.....	44.9	5 00	224 50
Gray, Edward C.....	Tiverton.....	18.	10 00	180 00
Griffin, George A.....	Narragansett.....	5.	10 00	50 00
Hart, George W.....	Warren.....	3.	10 00	30 00
Higgins, Robert W.....	Providence.....	69.4	10 00	694 00
Higgins, Robert W.....	Providence.....	.4	5 00	2 00
Higgins, Robert W.....	Providence.....	3.	1 00	3 00
Jenerson, Oliver L.....	Cranston.....	2.7	10 00	27 00
Logan, Edgar A.....	North Kingstown.....	3.	10 00	30 00
Logan, Annie A.....	North Kingstown.....	1.2	10 00	12 00
Luther, Charles A.....	Bristol.....	1.4	10 00	14 00
Matteson, Edmund H.....	Warren.....	26.1	10 00	261 00
Matteson, Edmund H.....	Warren.....	42.2	5 00	211 00
Matteson, Harkless.....	Warren.....	7.4	10 00	74 00
Matteson, Harkless.....	Warren.....	1.7	5 00	8 50
McEleney, Patrick.....	East Providence..	14.3	10 00	143 00
McEleney, Patrick.....	East Providence..	4.4	5 00	22 00



Fishing Boats at Tiverton.

1911

ALPHABETICAL LIST.—Concluded.

NAME.	Town.	Acres.	Rent per acre.	Amount.
Martin, Benjamin B.....	Warren.....	225.1	10 00	2,251 00
Martin, Benjamin B.....	Warren.....	291.9	5 00	1,459 50
Milliken, John W.....	Warwick.....	7.	10 00	70 00
Parmelee, Charles W.....	Providence.....	530.5	10 00	5,305 00
Parmelee, Charles W.....	Providence.....	650.5	5 00	3,252 50
Payne & Butler.....	East Providence..	20.	10 00	200 00
Payne & Butler.....	East Providence..	1.9	5 00	9 50
Pettis, Robert.....	Providence.....	155.2	10 00	1,552 00
Pettis, Robert.....	Providence.....	179.7	5 00	898 50
Pettis, Robert.....	Providence.....	34.29	1 00	34 29
Pettis, Jane W.....	Wickford.....	7.8	10 00	78 00
Rowland, George H.....	Providence.....	43.5	10 00	435 00
Rowland, George H.....	Providence.....	6.1	5 00	30 50
Rose, Walter H.....	Warren.....	17.8	10 00	178 00
Rose, Walter H.....	Warren.....	8.9	5 00	44 50
Rooks, William J.....	Warwick.....	4.	10 00	40 00
Rooks & Havens.....	Warwick.....	30.5	10 00	305 00
Rooks & Havens.....	Warwick.....	54.	5 00	270 00
Schofield, William.....	Warren.....	30.	10 00	300 00
Schofield, William.....	Warren.....	37.4	5 00	187 00
Shepard, John.....	Bristol.....	22.2	10 00	222 00
Shepard, John.....	Bristol.....	6.8	5 00	34 00
Simmons, Charles.....	East Providence..	2.2	10 00	22 00
Smith, John T.....	Warren.....	38.4	10 00	384 00
Smith, John T.....	Warren.....	14.2	5 00	71 00
Smith, Frank W.....	Warren.....	93.3	10 00	933 00
Smith, Frank W.....	Warren.....	27.	5 00	135 00
Sprague, William H.....	Warwick.....	5.	10 00	50 00
Sunderland, William L.....	East Providence..	290.8	10 00	2,908 00
Sunderland, William L.....	East Providence..	69.	5 00	345 00
Tetlow, Edwin.....	Providence.....	15.5	10 00	155 00
Tetlow, Edwin.....	Providence.....	28.6	5 00	143 00
Thompson, George H.....	Barrington.....	1.3	10 00	13 00
Wall, William H.....	East Providence..	4.5	10 00	45 00
Welden, William.....	Apponaug.....	43.	5 00	215 00
Whaley, Frank A.....	South Kingstown.	1.	10 00	10 00
White, Mrs. M. J.....	Warwick.....	2.	10 00	20 00
Wheeler, Walter E.....	Westerly.....	25.2	10 00	252 00
Wheeler, Walter E.....	Westerly.....	176.	5 00	880 00
Zoller, August F.....	Providence.....	95.5	10 00	955 00
Zoller, August F.....	Providence.....	140.	5 00	700 00
Zoller, August F.....	Providence.....	8.8	1 00	8 80

ALPHABETICAL LIST

Of persons who have taken out oyster ground in 1904, and the number of acres and the price per acre so taken.

NAME.	Acres.	Rent per acre.	Amount.
Bowden, J. F. & A. B.....	2.	\$10 00	\$20 00
Brown, Edwin.....	50.	5 00	250 00
Church, George H.....	1.3	10 00	13 00
Church, George H.....	4.1	5 00	20 50
Chapman, Harris P.....	3.	10 00	30 00
Cottrell, George H.....	2.	10 00	20 00
Connolly, Thomas H.....	29.7	10 00	297 00
Connolly, Thomas H.....	2.6	5 00	13 00
Farrell, Joseph.....	4.9	10 00	49 00
Farrell, Joseph.....	.1	5 00	50
Gavitt, Oliver E.....	.8	10 00	8 00
Gavitt, Celia R.....	1.	10 00	10 00
Griffin, George A.....	3.	10 00	30 00
Jenerson, Oliver.....	9.1	10 00	91 00
Logan, Edgar A.....	3.	10 00	30 00
Logan, Annie A.....	1.2	10 00	12 00
Matteson, Harkless.....	6.	10 00	60 00
McEleney, Patrick.....	4.4	5 00	22 00
Parmelee, Charles W.....	3.6	10 00	36 00
Parmelee, Charles W.....	14.8	5 00	74 00
Payne & Butler.....	1.9	5 00	9 50
Pettis, Robert.....	39.	10 00	390 00
Pettis, Robert.....	104.5	5 00	522 50
Rowland, George H.....	64.4	10 00	644 00
Rowland, George H.....	6.1	5 00	30 50
Satterly, Charles A.....	.4	10 00	4 00
Satterly, Charles A.....	13.6	5 00	68 00
Shepard, John.....	4.	10 00	40 00
Smith, John T.....	1.6	10 00	16 00
Smith, Frank W.....	2.	10 00	20 00
Smith, Frank W.....	8.8	5 00	44 00
Sunderland, William L.....	15.9	10 00	159 00
Sunderland, William L.....	28.7	5 00	143 50
Welden, William.....	6.	5 00	30 00

APPENDIX B.

PUBLIC LAWS RELATING TO SHELL FISHERIES.

CHAPTER 853.

AN ACT IN AMENDMENT OF AND IN ADDITION TO CHAPTER 170 OF THE GENERAL LAWS, ENTITLED "OF PRIVATE AND SEVERAL OYSTER FISHERIES."

Passed March
29, 1901.

It is enacted by the General Assembly as follows:

SECTION 1. There shall be elected by the general assembly, in grand committee, five commissioners of shell fisheries, one from each county, who shall hold office for the term of five years and until their successors, respectively, shall be elected and qualified to act. Any vacancy that may occur in said offices while the general assembly is not in session may be filled by the governor until such time as some person elected by the general assembly, in grand committee, to fill such vacancy, shall be qualified to act. Any person elected by the general assembly to fill such vacancy shall hold office for the unexpired term of the person whose place he is elected to fill. They shall have power and authority to elect a clerk and prescribe his duties: *Provided*, that nothing in this act shall be so construed as to affect the tenure of office of the present commissioners of shell fisheries, who shall continue to hold their offices for the terms for which they were elected.

Commissioners
of shell fisheries,
how elected
and term of
office.

SEC. 2. The said commissioners, previous to entering upon the duties of their office, shall severally give a bond,

To give bond.

with sureties satisfactory to the general treasurer, in the sum of one thousand dollars, with condition to faithfully perform the duties of the office according to law.

To make annual report.

SEC. 3. The said commissioners shall make annual report to the general assembly at its January session of their doings and the condition of this department of the public service, including a detailed statement of all moneys received and expended on account thereof.

Office of.

SEC. 4. The said commissioners shall have an office in the state house in the city of Providence, where the maps, charts, books, leases, and other property connected with said commission shall be kept.

Not required to give surety for costs.

SEC. 5. Each of said commissioners shall, by virtue of his office, make complaints for any violation of the laws of this state relating to shell fisheries, and of any subsequent amendments thereof, without giving recognizance or surety for costs.

May appoint deputies.

SEC. 6. The said commissioners may appoint such deputies as they shall deem necessary for the detection and prosecution of any violation of the laws of this state relating to shell fisheries. Each of said deputies appointed as aforesaid shall be, by virtue of his office, a special constable, and as such deputy may, without warrant, arrest any person found violating any of said laws, and detain him for prosecution not exceeding twenty-four hours, and may seize any boat or vessel used in such violation, together with her tackle, apparel, and furniture, and all implements belonging thereto. Said commissioners may make all necessary regulations for the enforcing of said laws, and they shall be allowed their actual disbursements made in carrying the same into effect.

May lease certain lands as private oyster ground.

SEC. 7. Said commissioners may, unless otherwise by statute prohibited, agree to lease in the name of the state, by public auction or otherwise, to any suitable person, being an inhabitant of this state, any piece of land within the state,



Oyster House in Warren River.

covered by four feet of tide-water at mean low tide as delineated upon the plats in the office of commissioners of shell fisheries, and not within any harbor line, to be used as a private and several oyster fishery for the planting and cultivation of oysters thereon, upon such terms and conditions as they may deem proper, but not for a longer term than ten years or for a shorter term than five years, nor for a rent of less than ten dollars per annum for every acre to be leased, where the water is of the depth of less than twelve feet at mean low water, as shown on the plats in the office of the commissioners of shell fisheries, and not agreeing to lease more than one acre at a time in one lot or parcel to one person or firm; but in drawing such leases said commissioners may include in the instrument of lease one or more acres of land so leased by them, and all such leases shall be made and executed free of expense to the lessees; and neither of such commissioners shall at any time be interested in any lease of ground for planting oysters, or in the cultivation or product thereof: *Provided, however,* that in Little Narragansett bay, and in Pawcatuck river below "Pawcatuck rock," so-called, the said commissioners may let such land on terms as to time and rentals as may seem to them best.

SEC. 8. The said commissioners may let and lease any lands within the state covered by tide-water where the said water is of the depth of at least twelve feet according to the plats in the office of the commissioners of shell fisheries at the average low water, for the purpose of having the said land used in planting and cultivating oysters in the deep waters of Narragansett bay and tributaries, at an annual rental of not less than five dollars per acre, for a term not exceeding ten years from such letting. Same subject.

SEC. 9. Any person who shall wrongfully make claim to any public oyster ground, of which he has no lease or title from the state, by erecting bounds or monuments thereon of Penalty for wrongfully claiming public oyster ground.

any description, or otherwise claiming title to such land, shall for the first offence pay a fine of twenty dollars and costs, and for every subsequent offence pay a fine of fifty dollars and costs, one-half thereof to the use of the state and the other half to the complainant.

Surveys and
plats of oyster
grounds to be
done at ex-
pense of state.

SEC. 10. The said commissioners shall cause the original surveying and platting of all lands for planting and cultivating oysters under provisions of this chapter to be done at the expense of the state and without charge to the lessees; and the state auditor shall draw his order for the payment of said surveys and platting upon the general treasurer, upon properly presented vouchers approved by said commissioners, and the general treasurer shall pay said orders out of any moneys that may be in his hands not otherwise appropriated.

May cancel or
modify leases,
etc.

SEC. 11. The said commissioners may at the request of the lessee, for cause shown, cancel or modify any lease, or they may remit or abate the rent reserved therein if it shall be made to appear to the satisfaction of the commissioners that it would be equitable so to do.

Certain lands
are not to be
let.

SEC. 12. The said commissioners shall not let any land north of a line extending across Providence river from Field's Point to Kettle Point; or let any lands west of a line drawn from Warwick Neck light to Pojack Point, at Potowomut Neck; or let any land between Pomham light and Nayatt light or between Pawtuxet Neck and Rocky Point in-shore from land already leased; or let any of the ponds in Little Compton, Charlestown, South Kingstown, New Shoreham, Tiverton, or Westerly; or let the channel between Long Neck and Marsh Island flats, from the channel in Providence river to the bridge in Pawtuxet: *Provided, however,* that nothing in this act shall be so construed as to affect any of the lands which have been leased or the releasing thereof.

SEC. 13. The said commissioners shall give notice of every application for a lease of land for the planting of oysters by publication twice a week for two successive weeks in some daily newspaper published in the city of Providence, and also once a week for two successive weeks in some newspaper published in the county nearest to which the ground is located, describing the land therein applied for and giving the name and residence of the applicant and the day, hour, and place where the land will be let; which day shall in all cases where the first hearing upon such an application is to be had be upon the first or third Friday of the month, and the commissioners may give such further notice of such application as they may deem to be necessary to inform persons interested of the pendency of such application, and the actual costs of publishing said notices shall be paid by the applicants.

Application
for leases to be
advertised.

SEC. 14. Said commissioners may adjourn such hearing from time to time, and may issue process to compel the attendance of witnesses for either party, and shall give notice to all parties who have appeared before them upon any application of the time and place when their decision will be given; and such decision shall be final, unless appellate proceedings are taken and prosecuted as hereinafter provided.

Adjournments,
effect of decision.

SEC. 15. Any person aggrieved by the decision of the commissioners upon any application for a private or several oyster ground or oyster fishery may petition the common pleas division of the supreme court within and for the county nearest to which said land so applied for lies, for a reversal or modification of such decision, in like manner and with the same procedure, excepting where a different procedure is provided in this act, as prescribed in sections fifteen and sixteen of chapter forty-six in the case of petition for relief for over-assessment for taxes.

Petition to the
common pleas
division.

When to be
presented.

SEC. 16. Application for citation in such case shall be made to the clerk of said common pleas division within five days from the day such decision shall have been made, and the petitioner shall, at or before the time for filing his petition, file with said clerk a copy of the proceedings before the commissioners, and a bond, signed by him or by some one in his behalf, with sufficient surety, in the sum of fifty dollars, payable to said clerk for the use of the state, with condition to prosecute such petition to final judgment and to pay such witness fees and the costs of summons incurred by any party opposing such petition as the court shall award, in case the decision of the commissioners shall not be reversed.

How to be
tried.

SEC. 17. Such case shall be heard and tried in the same manner as other cases entered upon the docket of said court, and the judgment of the court (which shall be entered immediately upon the rendition of decision or verdict) shall be conclusive upon the question whether said land shall or shall not be leased, and the commissioners shall grant or refuse a lease accordingly.

Leases how ex-
ecuted, what
to contain, etc.

SEC. 18. Such leases shall be executed by such lessee, as well as by said commissioners, in two parts, one part thereof to be delivered to such lessee and the other part thereof to be retained by said commissioners and recorded in a book kept for that purpose, and shall contain proper covenants for the payment of rent and the performance of the conditions and observance of the restrictions therein set forth, with proper clauses reserving to said commissioners a right to re-enter on behalf of the state and to terminate said lease for breach of any of such covenants.

Land leased, to
be platted, etc.

SEC. 19. Said commissioners shall before granting any such lease cause the land to be leased as aforesaid to be surveyed and platted, and shall in all cases cause proper bounds with marks thereon to be set up either on the shore opposite

and nearest to such land to be leased as aforesaid, in order to define the limits thereof, or shall cause such land to be leased as aforesaid to be marked with stakes or buoys at the corners of the ground leased, with such marks thereon as they may direct. Such bounds, stakes, or buoys, with the marks thereon, shall be renewed whenever the commissioners shall direct.

SEC. 20. The drawing and executing of such leases, the original surveying and platting, shall be done by said commissioners without expense to the lessees. The setting up of the bounds, stakes, or buoys shall in all cases be done by the lessee under the direction of the commissioners.

Commissioners to direct the work.

SEC. 21. Every person who shall willfully injure, deface, destroy, or remove such marks or bounds, or deface any mark thereon, or shall tie or fasten any boat or vessel to any such stake or buoy, shall be fined twenty dollars for each offence, one-half thereof to the use of the state and one-half thereof to the use of the complainant. Every such person shall, in addition thereto, be liable in an action of the case to pay double damages and costs to the person who shall be injured by having the marks and bounds, stakes, or buoys of their said lots injured, defaced, removed, or destroyed as aforesaid.

Penalty for injury to bounds, etc.

Civil Liability.

SEC. 22. The oysters planted or growing in any private oyster ground leased as aforesaid shall, during the continuance of the lease, be the personal property of the lessee of such oyster ground.

Oysters on ground leased are the personal property of the lessee.

SEC. 23. Every person who shall work a dredge, pair of oyster tongs or rakes, or any other implement for the taking of shellfish of any description, upon any private and several oyster ground or bed without the consent of the lessee or owner thereof, or who shall, while upon or sailing over any such ground or bed, cast, haul, or have overboard any such dredge, tongs, rake, or other implement for the taking of

Penalty for taking oysters from a private bed without consent.

shellfish of any description, under any pretense or for any purpose whatever, without the consent of such lessee or owner, shall for the first offence be fined not exceeding twenty dollars or be imprisoned not exceeding thirty days, and for every subsequent offence shall be fined not exceeding one hundred dollars or be imprisoned not exceeding six months.

Commissioners
are to enforce
leases.

SEC. 24. Said commissioners shall from time to time diligently inspect and ascertain whether or not the terms and restrictions of the leases are kept and performed in a just and proper manner, and whether or not the rents are punctually paid; and in case said terms and restrictions are not kept and performed, or said rents are not punctually paid, the commissioners shall forthwith enter upon the land so leased and terminate the lease.

May sue for
rents.

SEC. 25. The commissioners may, in the name of the state, institute any legal proceedings that may be necessary for the collection of such rent. The commissioners may take possession of any lot leased, upon which the rent shall not have been paid, and may dispose of said lot with all the oysters thereon at public auction to the highest bidder, first giving notice of the time and place of sale by publishing the same at least once each week for two successive weeks in some newspaper published in the city of Providence, with power to adjourn such sale from time to time, giving like notice of such adjournment; to make and execute to the purchaser at such sale a good and sufficient conveyance of all the right, title, and interest of said lessee in and to the lot leased, together with the oysters thereon; and to receive the proceeds of such sale, and from said proceeds to retain all sums due and owing the state for rent as aforesaid, together with all expenses incident to such sale, rendering and paying the surplus of said proceeds of sale, if any there be over and above the amounts so to be retained as aforesaid, to said lessee, his heirs, executors, administrators, or assigns.

May take possession of and
sell lessee's interest if rent is
not paid.

SEC. 26. Every person who shall take oysters from any private and several oyster bed, except between the hours of sunrise and sunset, shall be fined twenty dollars for each offence, one-half thereof to the use of the state and one-half thereof to the use of the complainant; and every boat or vessel used or in any way employed in so doing shall, together with its tackle, apparel, furniture, and implements on board, be forfeited.

Oysters not to be taken between sunset and sunrise.

SEC. 27. Every person who shall wrongfully take and carry away oysters from a private oyster bed shall for the first offence be fined fifty dollars and be imprisoned for thirty days, and for every subsequent offence shall be fined one hundred dollars and be imprisoned for six months.

Penalty for unlawful taking from a private oyster bed.

SEC. 28. Any police constable may in view of the commission of any offence against the provisions of this act upon any of the public waters of the state arrest the offender without warrant and detain him for prosecution not exceeding twenty-four hours.

Police constable may arrest without a warrant on view of an offence.

SEC. 29. Every person who shall willfully break up, damage, or injure any bed of oysters, or any tract of land leased from the state for an oyster bed, by depositing thereon earth, stones, or dredgings or scoopings from the river or docks, or in any other manner, shall be fined not exceeding five hundred dollars, one-half thereof to the use of the state and one-half thereof to the use of the complainant; and shall forfeit his boat or vessel, with her tackle, apparel, and furniture, and all the implements by him used in injuring such oyster bed.

Penalty for injury to oyster grounds by any means.

SEC. 30. Every person convicted a second time of a violation of any of the provisions of this act shall, in addition to the penalties herein before mentioned, be deprived of the privilege of fishing for oysters in the waters of the state for the space of three years thereafter, under penalty of thirty days imprisonment for each offence.

Penalty for violation of this chapter upon second conviction.

Penalty for taking more than two bushels of oysters daily from Trustan pond.

SEC. 31. Every person who shall take more than two bushels of oysters during any one day from Trustan pond, in South Kingstown, shall be fined not less than five dollars nor more than twenty dollars for every bushel so taken above two bushels.

Commissioners to act as special constables; with what powers.

SEC. 32. Each of said commissioners shall be by virtue of his office a special constable, and, as such commissioner, may arrest any person found violating any of the provisions of this act, and may seize any boat or vessel, with her tackle, apparel, and furniture, and all implements belonging thereto, when employed in taking oysters or in injuring any oyster bed in violation of the provisions of this act, and shall make complaint when called upon to do so for all such violations, and in any such complaint he shall not be required at the time of complaint or thereafter to enter into recognizance or in any way to become liable for the costs that may accrue thereon; and the attorney-general shall, when notified to do so by the complainant, prosecute all such complaints in the court where the same shall be made or be pending; and all cases of appeal thereof from the sentence of a district court, and all questions arising under the same, or under any complaint and warrant made under the provisions of this act, in either division of the supreme court, shall be conducted by said attorney-general.

May employ a surveyor.

SEC. 33. A surveyor may be employed to fix the place or otherwise to designate the locality of any violation of the provisions of this act, and reasonable charges of such surveyor for such service shall be allowed by the court, if said employment shall be by said court deemed to have been necessary; and such charges when allowed as aforesaid shall be taxed in the bill of costs.

Leases validated.

SEC. 34. All leases of oyster grounds heretofore granted by the commissioners of shell fisheries to any party of parties residents of this state are hereby validated and confirmed.



Frank W. Smith's Oyster House in Warren River.

Digitized by Google

SEC. 35. Chapter 170 of the General Laws and all acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER 858.

AN ACT IN AMENDMENT OF AND IN ADDITION TO CHAPTER 169 OF THE GENERAL LAWS, ENTITLED "OF FREE AND COMMON OYSTER FISHERIES."

Passed March 29, 1901.

It is enacted by the General Assembly as follows:

SECTION 1. Every person who shall take any oysters from the free and common oyster fisheries northerly of Field's Point and Kettle Point in this state between the first day of June in any year and the first day of April in the following year, or from the free and common oyster fisheries in any of the other waters of this state between the fifteenth day of May in any year and the fifteenth day of September, or expose any oysters for sale taken therefrom in violation of the foregoing provisions, shall be fined twenty dollars for each offence.

Close time on oysters.

SEC. 2. Every person who shall take more than twenty bushels of oysters, including shells, during any twenty-four hours for each boat employed by him in taking the same, from any of the free and common oyster fisheries within the waters of the state shall be fined twenty dollars for every bushel so taken over and above said twenty bushels, one-half thereof to the use of the state and one-half thereof to the use of the complainant.

Penalty for taking over 20 bushels of oysters in 24 hours.

SEC. 3. Every person who shall take any oysters from any free and common oyster fishery within this state, with dredges or any other instrument, or by any other method more destructive to oyster beds than the usual method of taking them by oyster tongs, shall forfeit the boat or vessel

Penalty for the use of dredges, etc.

with its tackle, apparel, and furniture, and all implements thereto belonging, and in addition thereto shall be fined one hundred dollars, one-half thereof to the use of the state and one-half thereof to the use of the complainant.

Exceptions.

SEC. 4. Nothing in the preceding section shall be so construed to prevent any citizen of this state from taking oysters in the public waters of this state with dredges when the water at mean low tide is fifteen or more feet in depth: *Provided, however,* no such dredges shall be used or operated by any vessel propelled by machinery.

Oysters to be taken in day time, only.

SEC. 5. No person shall take oysters from a public oyster ground or bed except between the hours of sunrise and sunset on any day.

Citizens only may take shellfish.

SEC. 6. No person shall be allowed to fish for oysters or other shellfish within the public fisheries of this state, unless he and his employer are at the time, and have been for one year next preceding, residents of this state.

Penalties.

SEC. 7. Every person violating any of the provisions of sections four, five, and six of this act shall be fined twenty dollars for each offence, one-half thereof to the use of the complainant and one-half thereof to the use of the state; and every boat or vessel used in any way or employed in taking oysters or shellfish contrary to the provisions of any of said sections shall, together with its tackle, apparel, furniture, and implements on board, be forfeited.

Penalty on second conviction.

SEC. 8. Every person convicted a second time of a violation of any of the provisions of this act shall, in addition to the penalties before mentioned, be deprived of the privilege of fishing for oysters in the waters of the state for three years thereafter, under a penalty of thirty days imprisonment for each offence.

SEC. 9. Chapter 169 of the General Laws and all acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER 833.

AN ACT IN AMENDMENT OF AND IN ADDITION TO CHAPTER 173 OF THE GENERAL LAWS, ENTITLED "OF THE SCOLLOP FISHERIES."

Passed March
26, 1901.

It is enacted by the General Assembly as follows:

SECTION 1. Every person who shall take any scallops from any of the waters of this state between the hours of sunset and sunrise shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

Penalty for
taking of scal-
lops between
sunset and sun-
rise.

SEC. 2. Every person who shall take, in any one day, from any of the waters of this state, more than twenty-five bushels of scallops, including the shells, for each boat actually employed by him in taking the same, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

Penalty for
taking of more
than what
quantity in one
day.

SEC. 3. Every person who shall take any scallops from any of the waters of this state by dredging or by any other means at any time between the first day of January and the first day of September shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence; but nothing in this section contained shall be so construed as to prevent any person from taking scallops lawfully caught and bedded by him from the grounds in which he has planted them at any time between the first day of January and the fifteenth day of April.

Penalty for
violation of
close time.

SEC. 4. Every person who shall take any seed scallops from any of the waters of this state by dredging or by any other means, or shall have in his possession any seed scallops and shall fail immediately to restore them to their natural beds, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

Penalty for
taking seed
scallops.

SEC. 5. Every person, before engaging in the taking of scallops, shall obtain from the commissioners of shell fisher-

Scallop fisher-
men to be
licensed.

ies a license for his boat or boats, the fee for which shall be five dollars for every boat thus engaged. And every person who shall take any scallops from any of the waters of this state without first obtaining such license from said commissioners shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence: *Provided, however,* that nothing in this section contained shall be so construed as to prevent any person from taking one bushel of scallops per day for his own use; *and provided, further,* that no boat shall be allowed to have more than two men, each of whom shall be allowed one bushel for his own use.

Licenses, when to expire, and fee for.

SEC. 6. All licenses shall expire on the thirty-first day of December of each year; and for every license issued by said commissioners there shall be paid to the clerk thereof a fee of twenty-five cents for his own use: *Provided,* that every person to whom a license is granted under the provisions of this act shall have had his home and residence in this state for the period of one year next preceding the granting of such license or the renewal thereof.

To be granted to residents of this state only.

Boats to be numbered.

SEC. 7. The commissioners of shell fisheries shall provide a number for every boat licensed by them; said number shall be black, eight inches in length, and shall be exposed in a conspicuous place upon each boat upon a white surface, and the deputies shall keep a record of all such licensed boats in a book kept for that purpose.

Penalty for opening scallops while catching them and throwing shells onto the beds, etc.

SEC. 8. Every person who shall open any scallops while catching them or throw the shells onto the scallop beds, and every person who shall throw back into the water any starfish, shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

Of the possession of scallops during close time.

SEC. 9. Possession by any person of any scallops between the fifteenth day of April and the first day of September shall be *prima facie* evidence before any court of competent jurisdiction that such scallops were taken in violation of this chap-

ter; and every such person shall be fined twenty dollars and be imprisoned not more than thirty days for each such offence.

SEC. 10. The commissioners of shell fisheries shall appoint at least four deputies, whose duties shall be the enforcing of the provisions of this chapter; they shall be selected one from Bristol county, one from Kent county, one from Newport county, and one from Washington county. Each of said deputies appointed as aforesaid shall be by virtue of his office a special constable, and as such deputy may, without warrant, arrest any person found violating any of the provisions of this chapter and detain him for prosecution not exceeding twenty-four hours.

Commissioners shall appoint deputies.

SEC. 11. Fines incurred under any of the provisions of this act shall inure one-half thereof to the use of the complainant and one-half thereof to the use of the state.

Fines, how to inure.

SEC. 12. The several district courts shall have concurrent jurisdiction with the common pleas division of the supreme court over all offences under this chapter and to the full extent of the penalties therein specified; parties defendant, however, having the same right to appeal from the sentences of said district courts as is now provided by law in other criminal cases.

District courts to have concurrent jurisdiction with common pleas division of supreme court over offences under this chapter.

SEC. 13. Chapter 173 of the General Laws, entitled "Of the scallop fisheries," and all acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 14. This act shall take effect upon and after its passage.

CHAPTER 1092.

Passed March
24, 1908.

AN ACT IN AMENDMENT OF SECTION 7 OF CHAPTER 853 OF THE PUBLIC LAWS, PASSED MARCH 29, 1901, ENTITLED "AN ACT IN AMENDMENT OF AND IN ADDITION TO CHAPTER 170 OF THE GENERAL LAWS, ENTITLED 'OF PRIVATE AND SEVERAL OYSTER FISHERIES.'"

It is enacted by the General Assembly as follows:

SECTION 1. Section 7 of Chapter 853 of the Public Laws, passed March 29th, 1901, entitled "An act in amendment of and in addition to Chapter 170 of the General Laws, entitled 'Of private and several oyster fisheries,'" is hereby amended so as to read as follows.

Commissioners of shell-fisheries may lease certain land as private oyster ground in the town of Westerly.

"SEC. 7. Said commissioners may, unless otherwise by statute prohibited, agree to lease in the name of the state, by public auction or otherwise, to any suitable person being an inhabitant of this state, any piece of land within the state, covered by four feet of tide water at mean low tide, as delineated upon the plats in the office of the commissioners of shell fisheries, and not within any harbor line: *Provided*, that in Brightman's Pond or Babcock's Pond, so-called, in the town of Westerly, said commissioners may agree to lease any piece of land therein, below mean low-water mark, whether the same is covered by four feet of tide water or not, to be used as a private and several oyster fishery for the planting and cultivation of oysters thereon, upon such terms and conditions as they may deem proper, but not for a longer term than ten years or for a shorter term than five years, nor for a rent of less than ten dollars per annum for every acre to be leased where the water is of the depth of less than twelve feet at mean low water, as shown on the plats in the office of the commissioners of shell fisheries, and not agreeing to lease more than one acre at a time in one lot or parcel to one person

or firm, but in drawing such leases said commissioners may include in the instrument of lease one or more acres of land so leased by them, and all such leases shall be made and executed free of expense to the lessee; and neither of such commissioners shall at any time be interested in any lease of ground for planting oysters, or in the cultivation or product thereof: *Provided, however,* that in Little Narragansett bay, and in Pawcatuck river below 'Pawcatuck rock,' so-called, the said commissioners may let such land on terms as to time and rentals as may seem to them best."

CHAPTER 000.

AN ACT FOR THE BETTER PROTECTION OF THE SHELL FISHERIES IN THE PUBLIC WATERS OF THIS STATE, PASSED AT THE JANUARY SESSION, A. D. 1905.

Passed April
18, 1905.

It is enacted by the General Assembly as follows:

SECTION 1. No person shall deposit in, or allow to escape into, or shall cause or permit to be deposited in, or allowed to escape into any of the public waters of this state, any substance which shall in any manner injuriously affect the growth of the shell-fish in or under said waters; or which shall in any manner affect the flavor or odor of such shell-fish so as to injuriously affect the sale thereof, or which shall cause any injury to the public and private fisheries of this state.

SEC. 2. Any person violating any of the provisions of this act shall upon conviction thereof be fined not less than five hundred dollars or more than two thousand dollars, one-half thereof to the use of the complainant and one-half thereof to the use of the state: *Provided,* that in case of conviction upon prosecution by the commissioners of shell fisheries the whole of any fine imposed shall go to the use of the state.

SEC. 3. Every person violating any of the provisions of this act shall be liable to pay to the party injured by such violation



double the amount of damages caused thereby, to be recovered in an action of the case in any court of competent jurisdiction. It shall not be necessary before bringing suit for the recovery of such damages for a criminal prosecution to have been first instituted for the violation of the provisions of this act, nor shall the recovery of damages under this section be a bar to such criminal prosecution.

SEC. 4. It shall be the duty of the commissioners of shell fisheries to investigate all complaints made to them of the violation of any of the provisions of this act. For the purpose of such investigation said commissioners may make examination of the premises, hold public hearings, summon witnesses, and take testimony under oath, and they shall have power to punish, by fine or imprisonment or both, all contempt of their authority in any hearing before them. They may employ professional or expert services as they may deem desirable.

SEC. 5. It shall be the duty of the shell-fish commissioners to prosecute any person in their opinion guilty of the violation of any of the provisions of this act, and in all such prosecutions said commissioners shall not be required to enter into any recognizance or to give surety for costs. It shall be the duty of the attorney-general to conduct the prosecution of all cases brought by said commissioners under the provisions of this act. Complaints may be also brought and prosecuted by any citizen for any violation of its provisions.

SEC. 6. The expenses incurred by the commissioners of shell fisheries in the performance of the duties imposed upon them by this act shall be paid by the general treasurer, out of any funds in the treasury not otherwise appropriated, upon the presentation of vouchers therefor duly certified by their chairman.

SEC. 7. All provisions of the General Laws, of the Public Laws, and of any special law, inconsistent herewith, are hereby repealed, and this act shall take effect upon its passage.



Blount & Hunt's Oyster House, Warren River.

Digitized by Google

APPENDIX C.

RULES GOVERNING THE LEASING OF OYSTER GROUNDS,

ADOPTED BY THE COMMISSIONERS OF SHELL FISHERIES,
DECEMBER 29, A. D. 1903.

1. Application for oyster ground may be made at any time by any suitable person permitted by the statute laws governing the commissioners, except that where the ground has been applied for and refused for any cause the application must be submitted to the commissioners for action at some meeting called for the transaction of business, unless provided for elsewhere in these rules: *Provided, however, that, except by vote of the commissioners, no application will be entertained from any person who is already in arrears for rent for more than one year.*

2. Any application received shall be recorded and the advertising paid for at the time of receiving the same.

3. When any person shall make application for any oyster ground as by law provided, and the same shall be legally advertised, if at the time set for hearing of said application there shall be no objection to the leasing the same filed with the clerk of the Commissioners of Shell Fisheries, said clerk is hereby authorized in his discretion to grant the lease of the land thus applied for to the person having made such application. If there should be any opposition to the leasing of said land, the clerk shall refer the same to the Commissioners of Shell Fisheries for their decision.

4. When any person shall have made application for a lease of any oyster ground and the application shall have been rejected,

nothing in these rules shall be so construed as to give any person any option or refusal of said land or of any unleased land wherever situated; but the said applicant may at the time of hearing and rejection file in the office of the Commissioners of Shell Fisheries a request to have the land advertised in his name in case the same is advertised within one year from said date, and in case such land is advertised within said period the said applicant shall be considered with any or all other applicants for the ground.

5. When more than one person shall make application for a lease of the same tract of land and the said applications shall have been advertised according to law, the commissioners shall decide to which and how many, if any, of said applicants a lease of the land so applied for shall be granted and the amount to be leased to each.

6. Whenever any person objects to the leasing of any tract of ground said person shall file his reasons in writing for so objecting with the clerk of the commissioners before the time set for the first hearing on the application. The hearing of the commissioners on the question of whether or not a lease shall be granted of said ground will be entirely confined to the said reasons filed in writing.

7. Whenever an objection to the leasing of any tract of ground has been properly filed the clerk of the commissioners shall, at his convenience, fix a date for an adjourned hearing before the commissioners.

8. In all cases where a grant of land has been made to any applicant such applicant must take no less than fifty per cent. of the area granted. Should any condition or circumstance arise to in any way prevent any applicant from taking this percentage of his application, the applicant must within two months submit the facts in the case to the commissioners for their action. In case it appears reasonable so to do, the commissioners will relieve the applicant from further obligation under the application. But in case of failure of any party to obtain such relief, no ground shall be granted him elsewhere for a period of two years.

9. Whenever a portion of the amount granted to any person has been properly designated and the first survey completed and reported to the clerk, no part of the remainder shall be surveyed under such grant nor shall the person to whom it was granted have any further claim to have such remaining portion leased to him except by permission of the commissioners: *Provided, however*, that in cases where no other application or grant is standing for the same or adjoining ground, the applicant may have leased to him such area as comes under said grant if in the opinion of the clerk no other parties' interest will suffer by so doing.

10. Any ground duly advertised and granted must be promptly designated by the person to whom the grant is made within thirty days after being notified by the engineer that he is ready to make the survey. In case of failure to attend to the survey within said period of thirty days, the applicant shall lose his right to take the ground unless granted an extension of this time by vote of the commissioners. In case of failure to take the ground within said period of thirty days or within the time of extension granted by vote of the commissioners, the applicant's standing shall be determined by Rule 8.

11. No ground shall be put into use by any proposed lessee until the survey is completed and recorded in the clerk's office and the lease of the same accepted.

12. Any person to whom land has been granted must accept the lease of the same within thirty days after the date of the engineer's return to the clerk, or in default thereof lose his right to take such lease. In case of such default such person shall, in addition to losing his right to take the lease, pay to the State the entire cost of preparing such lease, including the cost of the survey.

13. The clerk may in his discretion transfer any lease of oyster ground from the lessee to any other suitable and proper person, on request of the lessee so to do.

14. The clerk may in his discretion, on the request of the lessee, cancel any lease or any portion of a lease on which the rent is fully paid to the date of cancellation.

15. All lessees shall pay their rents to the clerk of the commission within one year after the same fall due. Rents paid between January 1 and March 1 will be received by the clerk at their net amount. Interest at the rate of six per cent. per annum will be assessed on all rents paid after March 1 of the year in which they become due. Failure to pay the rent on any lease within the year will be deemed sufficient cause for the commissioners to cancel such lease and to proceed to collect the rent according to law.

ADDITIONAL RULES ADOPTED MAY 3, 1904.

16. All leaseholders shall maintain at their own expense throughout the year proper stakes or buoys on all corners of land leased to them, except during such times as owing to storms, drifting ice, or other conditions it is impossible to keep such stakes or buoys in place.

17. Whenever the stakes or buoys marking leased ground are carried away the leaseholder of the ground must renew the same as soon as possible thereafter.

18. Leaseholders must in all such cases employ the engineer designated by the commission and appointed by them to do the surveying work for the State in making surveys of oyster grounds.

APPENDIX D.

REPORT OF THE COMMITTEE

APPOINTED BY

**THE COMMISSIONERS OF SHELL FISHERIES TO INVESTIGATE
THE POLLUTION OF PROVIDENCE RIVER AND THE UPPER
WATERS OF NARRAGANSETT BAY, WHICH IS
CAUSING INJURY TO THE SHELL-FISH.**

To the Commissioners of Shell Fisheries:

The undersigned were appointed a committee at a special meeting of the Commissioners of Shell Fisheries held June 7th, 1904. This meeting was held to consider the complaints of a number of lessees of oyster grounds in Narragansett bay that the oyster, and other shell fish planted upon the ground which they leased of the State had recently become tainted with a strong odor or taste like that of illuminating gas and petroleum. This odor or taste had become so marked as to cause complaints from their customers and to render much of their stock unmarketable. It was further alleged that the same pollution of the waters was causing the death of a very considerable portion of the shell fish. These complainants were unanimous in the opinion that if these causes of the contamination of the upper waters of the bay were to continue it must eventually destroy the shell fish therein growing; that it would extend still farther down the bay, causing still greater loss to both the private planter and to the free fishermen who gather a livelihood from the public waters of our State.

The injury to the revenues of the State by the loss of rentals, to

private capital invested in the business of growing oysters, and to the many citizens who are engaged in following the free fisheries in the gathering of seed oysters, clams, and quahaugs from the upper waters of this bay seemed to demand that your committee act with promptness in the investigation of the accuracy of these reports and the causes of the injury, and report at an early date the results of their investigation.

All the complaints made alleged that one of the main sources of pollution was to be found at the works of the Providence Gas Company. A visit was therefore made to the works of the Providence Gas Company, situated at the foot of Public street, on the same afternoon that we were appointed. An examination of the grounds adjacent to the works, and which are used by the company, showed the presence of two excavations or dumping holes, large enough to hold several barrels, each located just south of the works. One of these was partly filled with a black, inky liquid, having a very strong odor of illuminating gas and of a heavy oily nature. The other excavation showed signs of having recently been in use, but was nearly empty at the time. There were evidences of other excavations of a similar nature upon this land, but which were no longer in use. The soil in which they were located is made land composed mostly of cinders and refuse. Through this the contents of these excavations easily leak into the Providence river, the shore of which is not over one hundred feet away. They had no other outlet, and it seemed that the liquid was expected to leak off through the ground, and thus escape into the river. This oily substance can be plainly seen running out of this ground at low tide. A visit was paid to the same premises four days later, when the excavations were found to have been filled up. A place was found adjoining the works between high and low water marks where the shore was saturated with this same oily substance. Although the tide covers this spot twice each day, yet this oily substance remains in a large part. This substance appears here and elsewhere to have strong adhesive qualities which cause it to cling tenaciously to any object with which it comes in

contact. The bottom of the river adjacent to these gas works was examined and found to be thoroughly saturated with this same oily substance. Three visits were subsequently made to this place, and an examination of the bottom of the slip and of the surface of the water on the north side of the works was made. In each instance the examination disclosed very large quantities of tar and petroleum oil, having a strong odor of illuminating gas. The piling and walls were saturated with it. The oil covered the surface of the water. An examination of the river bed extending out to the channel showed that the mud was saturated with this same oily substance. A disturbance of the river bottom showed the presence of gas and oil which arose to the surface in quantities. The oil could also be plainly seen in the mud when it was raised to the surface. Similar conditions were found to exist in the examinations which were made extending down the river for several miles, though in a constantly diminishing quantity. An examination was then made of the bottom of the river in front of the upper works of the Providence Gas Company, situated a short distance south of Point street bridge on the west side, and showed the presence of the same oily substance which was found at the Public street works. Gases arose to the surface, and the same strong odor of illuminating gas was noticed. A considerable amount of tar and oil was released and rose to the surface when the bottom was disturbed.

Oil of a petroleum nature is found floating upon the surface of the river near the gas works, and it extends far below Field's Point, covering the water to a greater or less degree according to the conditions being favorable for its presence. An examination of both sides of Providence river was made for discharges into it which might account for the presence of this oil in the river. The discharges at the plants of the Rhode Island Company and the Narragansett Electric Light Company failed to show the presence of petroleum or oils of any nature in any appreciable quantities. The mud bottoms upon both sides of the Seekonk river, between Washington and Red bridges, were then examined. The presence of this same oil was found by a chemical analysis of the mud, but in such small amounts

as would lead us to believe that it could not produce the conditions which are causing the injury complained of upon the oyster beds. Some positive indications of a similar oily substance were found at the bottom of the discharges of the American Electrical Works, at Phillipsdale, but in small quantities compared with those heretofore described. An examination was made of the river in the immediate vicinity of the Pawtucket Gas Works and showed conditions equally as bad as those prevailing at the works of the Providence Gas Company, though apparently not so large in volume. The appearance of the river bottom, the presence of oil upon the surface, and especially the escape of oil and gases to the surface when the bottom was disturbed, the presence of tar on the bottom, the strong gas and petroleum odors arising from it, were all similar to those previously referred to as existing at the Providence Gas Works. This condition extended down the Seekonk river for some distance, but this substance is not found in such quantities below Red bridge as to lead us to believe that very appreciable quantities of it escaped into and passed down the Providence river. The tide flows strongly each way through this river. It is probable that this strong tide carries some of this oily substance up the river from the Providence Gas Works, which are situated directly opposite its mouth.

The investigation was then extended down the Providence river and upper part of the bay. The bottom was tested at frequent intervals, and the presence of this same oily substance could be traced in the mud and upon the surface when the bottom was agitated. It was plainly visible to the eye, upon the oyster grounds and mud banks, varying in amount according as the conditions of the tide and of the mud favored its presence. Chemical analyses showed the presence of oil in the mud, having many qualities like those found in the oil extracted from the mud at the gas works. An examination was made of the oysters and quahaugs and this same gas or petroleum taste and odor was discernible when they were eaten, whether raw or cooked. It was so strong as to seriously interfere with their usefulness as a marketable commodity. Oysters and

quahaugs taken from these beds were found to be dying in large numbers. We are informed that when the atmosphere is heavy and the water is calm this oil rises to the surface in large quantities, and often covers large areas. When the water is agitated by the breezes it breaks up and settles. In rising and settling it comes into direct contact with the shell fish which are feeding at the bottom of the river. Clams and oysters have been tainted with this same gaseous taste as far down the bay as Conimicut Point. The taste and odor in the shell fish found on these beds appears to be the same as that of the oil found on the bottom or which at times rises to the surface. This taste and odor is in each instance strongly similar to that of illuminating gas, and is of such a strong and distinct nature that it can not be readily mistaken for other odors.

An examination of the discharge of the sewerage plant at Field's Point failed to show any substance which could produce the injurious results complained of. We are further informed that these conditions have been noticed in the shell fish to such a marked degree as to have caused general complaint during the last winter, and particularly this last spring.

We are informed that large quantities of petroleum are used by all these gas works in the present process of the manufacture of gas, and from this petroleum a residuum or refuse is obtained, and that this same substance is also removed in considerable quantities from the gas mains of the company. This residuum, we believe, from the information we have received and from what we have observed, is to a considerable extent discharged into the waters adjoining the works and causes the oils and odors complained of. Chemical analyses of the mud found adjacent to the Providence Gas Works and of that found farther down the river upon the oyster beds referred to show many marked similar characteristics in odor and appearance. It is noticeable that as you approach the gas works the quantity and strength of the characteristics increase; or diminish as you recede from these works. Analyses show that this oil is very adhesive, which apparently accounts for the fact that it remains so

long upon the bottom of the river, and for the long-continued presence of the oils and gas. Each stage of our investigation has been accompanied by a chemical analysis of the samples taken. Samples of the water and mud taken and of the extracts obtained accompany this report.

We are of the opinion, from our investigation thus far made, that the works of the Providence Gas Company have been discharging an oil or refuse matter of a nature similar to that of petroleum into the Providence river in considerable quantities, which is carried by the currents and tides in appreciable quantities for a considerable distance down the bay; that this substance so discharged is injurious to all kinds of shell fish, injuring their flavor, being detrimental to their growth, and causing their death in large numbers. This injury is of vital importance to the oyster industry of this State and to the interests of the free fishermen who utilize the upper waters of Narragansett bay to such a large extent, and unless this pollution ceases, shell fish of the upper part of our bay must necessarily cease to exist as a marketable commodity. It further appears that this contamination is constantly working farther down the bay. This eventually means the loss of a valuable industry to our community and a source of great revenue to the State. The usefulness of hundreds of acres of the most valuable seed ground for oysters which we have in our bay is already affected to an appreciable extent. From the very grounds which already show signs of being affected by this contamination it is estimated that there were recently taken in one season as many as 150,000 bushels of seed oysters which were mostly profited in by the free fishermen. Besides this the clams and quahaugs which are gathered in such large quantities by them are also seriously affected. Our investigations of both sides of the Providence and Seekonk rivers lead your committee to believe that the waste from the works of the Providence Gas Company is the chief cause of this oily and gaseous pollution of the river bottom which is causing injury to the shell fish.

The season of the oyster set is near at hand, and we believe that

this oily substance upon the water will be very injurious to it. The reputation of the oysters of one part of Narragansett bay can not be affected without ultimately injuring the reputation of the oysters of the whole bay. Nothing should be allowed to interfere with this reputation. Yet it now seems to be in serious danger unless the present conditions of the river are changed. Not alone are the shell fish of our waters injured by this pollution of the waters of our bay, but we find many complaints from yachtsmen and boat owners. It has been a source of serious annoyance to them for a considerable time. The shores of property owners are defiled with this oily substance.

We are further of the opinion that this substance above described which is thus discharged into the Providence river is injurious to the healthy growth of the shell fish growing in these waters, and that such acts of the Providence Gas Company are in violation of Chapter 118, section 6, of the General Laws of Rhode Island, which reads as follows:

"SEC. 6. No person or corporation shall deposit in, or allow to escape into, or shall cause or permit to be deposited in, or allow to escape into, the waters of Providence or Warren harbors or Providence or Warren rivers, any material used in connection with, or product of, the manufacture of gas, which may cause disagreeable odors or defile the surface of vessels, boats or other property, or the shores of said Providence or Warren harbors or rivers, or injure the healthy growth of fish or shell-fish in said waters. Every person or corporation violating the provisions of this section shall be fined for each offence one hundred dollars, one-half thereof to the use of the state and one-half thereof to the use of the complainant. It shall be the duty of the harbor commissioners to prosecute cases under complaints brought in accordance with this section."

The discharge of this refuse matter by these gas works, in our opinion, does more to injure the healthy growth of shell fish in the waters of Providence river and the upper parts of the bay than all the other causes together.

This pollution threatens to destroy the usefulness of fully one-fifth of the leased oyster ground in the State. It also threatens to destroy the usefulness of more than one-half of the best unleased

